

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

| | | |
|-------------------------------|---|-------------------------|
| JOHN ORVILLE STUDY, |) | |
| |) | |
| Petitioner, |) | |
| |) | No. 1:14-cv-994-RLY-MJD |
| v. |) | |
| |) | |
| SUPERINTENDENT, Wabash Valley |) | |
| Correctional Facility, |) | |
| |) | |
| Respondent. |) | |

Entry Dismissing Action and Directing Entry of Final Judgment

I.


There was no error or irregularity in the treatment of the petitioner's motion for relief from judgment in No. 1:12-cv-20-RLY-TAB as a new action for habeas corpus relief. *Spitznas v. Boone*, 464 F.3d 1213, 1215 (10th Cir. 2006)(applying *Gonzalez v. Crosby*, 545 U.S. 524, 532 (2005)). Accordingly, the petitioner's motion for change of cause of action or voluntary dismissal [dkt 9] is denied insofar as the petitioner seeks a change of the cause of action and is granted insofar as the petitioner seeks the dismissal of the action in the alternative. The dismissal shall be without prejudice, making this disposition non-appealable because the action may be re-filed. *See Moore v. Mote*, 368 F.3d 754 (7th Cir. 2004).

No certificate of appealability shall issue. All other motions are denied as moot.

II.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

Date: September 11, 2014.

Distribution:

Electronically to Registered Counsel of Record

JOHN O. STUDY
130440
Wabash Valley Correctional Facility
Electronic Filing Participant – Court Only